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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,956	12/31/2003	Ulrich Seseke-Koyro	037110.51540D1	6209

23911 7590 10/05/2004

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EXAMINER	
NGUYEN, NGOC YEN M	
ART UNIT	**PAPER NUMBER**
1754	

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/747,956	SESEKE-KOYRO ET AL.	
	Examiner	Art Unit	
	Ngoc-Yen M. Nguyen	1754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 December 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *8-17* is/are pending in the application.

4a) Of the above claim(s) *13-17* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *8-17* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 8-12 are, drawn to an alkali metal fluorozincate product, classified in class 423, subclass 464+.

II. Claims 13-17 are, drawn to a process of fluxing an aluminum or aluminum alloy, classified in class 148, subclass 24+.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process for using the product as claimed can be practiced with another materially different product such as the product of US patent 6,432,221.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. J. D. Evans on September 23, 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 8-12. Affirmation of this election must be made by applicant in replying to this

Office action. Claims 13-17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/48641 or Lauzon et al (6,105,850), either one in view of Popoola et al (5,723,187).

WO '641 discloses an alkali fluorozincate as a fluxing agent for aluminum or aluminum alloys (note claim 1). The alkali metal can be potassium (note claim 2).

Alternatively, Lauzon '850 is applied as stated below.

Lauzon '850 discloses that potassium fluorozincate can be used as a fluxing agent for aluminum brazing (note claim 1 and column 2, lines 34-41).

The difference is WO '641 or Lauzon '850 does not disclose that the particle size of the potassium fluorozincate.

Popoola '187 discloses in a process of using a flux to for bonding metals to aluminum substrate, the flux is desired to be applied as a solution and the particle size of the flux is controlled to less than 10 micrometers so that the particles remaining in suspension at all times without stirring (note column 2, lines 18-26).

It would have been obvious to one of ordinary skill in the art to obtain potassium fluorozincate of either WO '641 or Lauzon '850, by optimizing the conditions of the process of making such product, or by pulverizing (if the product particles are too big) or agglomerating (if the product particles are too small), with the particle size of less than 10 micrometers as suggested by Popoola '187 because such particle size is desired in the art of using a flux in a brazing process.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO '461 or Lauzon '850 in view of Shimajiri et al (4,989,775).

WO '461 or Lauzon '850 is applied as stated above.

The difference is WO '461 or Lauzon '850 does not disclose the particle size for the potassium fluorozincate.

Shimajiri '775 discloses for a process of brazing aluminum components, a fluoride flux powder having a grain size of 15 microns on average is desirable (note column 4, lines 55-57).

It would have been obvious to one of ordinary skill in the art to obtain potassium fluorozincate of either WO '641 or Lauzon '850, by optimizing the conditions of the process of making such product, or by pulverizing (if the product particles are too big) or agglomerating (if the product particles are too small), with the particle size of 15 micrometers on average, as suggested by Shimajiri '775 because such particle size is desired in the art of using a flux in a brazing process.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc-Yen M. Nguyen whose telephone number is (571) 272-1356. The examiner is currently on Part time schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Stan Silverman can be reached on (571) 272-1358. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed (571) 272-1700.

Ngoc-Yen M. Nguyen
Primary Examiner
Art Unit 1754

nmn
October 1, 2004